

STATE OF WEST VIRGINIA
THE ADJUTANT GENERAL'S DEPARTMENT
CHARLESTON, WEST VIRGINIA 25311

WV Human Resource Office Regulation
575-3

20 November 2008

Employment

RETENTION INCENTIVE

Summary of Changes: This regulation supersedes WVHROR 575-1, dated 10 August 2007. The purpose of this change is to change the numbering of the regulation to align with the 5 CFR.

This regulation establishes procedures for the West Virginia National Guard to pay a retention incentive to a current employee in the West Virginia National Guard if it is determined that the unusually high or unique qualifications of the employee, or a special need of the agency for the employee's services, makes it essential to retain the employee and that the employee would likely leave the West Virginia National Guard in the absence of a retention incentive. A retention incentive may be paid only when the employee's rating of record under an official performance appraisal or evaluation system is at least "fully acceptable" or equivalent. This retention incentive plan applies uniformly across the West Virginia National Guard technician program.

1. General: The purpose of this regulation is to establish the procedure for processing requests for retention allowance for current members of the WVNG technician workforce.

2. Definitions:

- a. **Aggregate Pay Limitation** – An executive branch employee may not receive any basic salary, locality payment, incentive, allowance, differential, bonus, award, premium pay, or similar cash payment that would cause the employee's aggregate compensation to exceed the rate for level I of the Executive Schedule on the last day of that calendar year.
(Reference 5 CFR 530.203(a))
- b. **Likely to Leave** - The determination that an employee is actively seeking other employment opportunities outside the West Virginia National Guard or has received a written job offer for employment outside the West Virginia National Guard.
- c. **Rate of Basic Pay** - For the purpose of calculating a retention incentive, an employee's rate of basic pay includes a special rate under 5 CFR part 530, subpart C, a locality payment under 5 CFR part 531, subpart F, or similar payment under other legal authority, but excludes additional pay of any other kind. A retention incentive is not part of an employee's rate of basic pay for any purpose.

3. Covered Positions: A retention incentive may be paid to an eligible individual in a General Schedule (GS) or prevailing rate (FWS) position. Employment status may be permanent or indefinite.

4. Excluded Positions: Technicians currently covered by a service agreement for a recruitment incentive or relocation incentive are excluded from consideration for a retention incentive. Once the service agreement has expired, the individuals can be considered for a retention incentive. Employees with a less than “fully acceptable” performance rating on their last technician performance appraisal are excluded from receiving a retention incentive. The basis on determining “likely to leave” excludes military technicians who are seeking AGR tours, ADSW tours, or State positions with the West Virginia National Guard.

5. Approval Authority: Retention incentives are requested by the nominating supervisor using the WV HRO Form 575-3A (Retention Incentive Nomination/Justification) and require coordination and certification of the appropriate Commander or Director. These certifications may not be delegated. Additionally, for Air National Guard funded positions, the appropriate wing comptroller must certify the availability of funds. Actions without the appropriate certifications will be returned without action. Approval authority for retention incentives may be delegated by The Adjutant General to the Human Resources Officer. In all circumstances retention incentives must be made in accordance with statutory and regulatory requirements and this implementation plan.

6. Approval Criteria: For each determination to pay a retention incentive, the West Virginia National Guard must document in writing the basis for determining that the unusually high or unique qualifications of the employee or a special need of the agency for the employee's services makes it essential to retain the employee and that the employee would be likely to leave the West Virginia National Guard in the absence of a retention incentive. The West Virginia National Guard must also consider the extent to which the employee's departure would affect the West Virginia National Guard's ability to carryout an activity or perform a function that is essential to the mission of the West Virginia National Guard; the success of recent efforts to recruit candidates with similar qualifications; and, the availability of qualified candidates in the labor market. Requests for a retention incentive received prior to appointment will be returned without action.

7. Groups of Employees: The West Virginia National Guard may “target” retention incentives to groups of similar positions which have historically been difficult to fill and retain. However, retention incentives are determined on an individual basis and not paid based on occupying a “targeted” position.

8. Payment: The West Virginia National Guard must establish a single retention incentive rate for the employee, expressed as a percentage of the employee's rate of basic pay, not to exceed 25 percent. The retention incentive will be paid in bi-weekly installments after the completion of the specified period of service (two weeks). The agency has the option to pay the retention incentive in a lump sum after completion of the full service period agreed upon in the service contract. The West Virginia National Guard may not pay a retention incentive as an initial lump-sum payment at the start of service or in advance of service. Retention incentives will not be paid to individuals in a non-pay status (Leave Without Pay – LWOP).

The West Virginia National Guard may not offer or authorize a retention incentive for an individual prior to employment with the agency and may not begin paying a retention incentive during the service period established by an employee's recruitment or relocation incentive service agreement. However, a relocation incentive may be paid to an employee who is already receiving a retention incentive.

9. Documentation of Justification: The WV HRO Form 575-3A, Retention Incentive Nomination/ Justification will be used to document the justification for payment of a retention incentive by the West Virginia National Guard. Requests which are not supportable will be returned without action. Specifically, nominating supervisors must document that the employee is likely to leave the West Virginia National Guard absent of receiving a retention incentive and by addressing all of the following areas:

- a. Criteria used by the supervisor to establish the percentage of the retention incentive;
- b. Unusually high or unique qualifications of the employee or special need for the employees services;
- c. Extent to which the employee's departure would affect the West Virginia National Guard's ability to carry out an activity or perform a function that is essential to the mission of the West Virginia National Guard; and
- d. Success of recent efforts to recruit candidates with similar qualifications and the availability of qualified candidates in the labor market.

10. Calculating Incentive Amounts: The incentive percentage is determined as the least amount possible to still retain the employee. The incentive amount is calculated by multiplying the employee's annual rate of basic pay at the beginning of the service period \times incentive percentage. The maximum retention incentive the West Virginia National Guard may authorize is 25 percent.

11. Recruiting Incentive Conditions: Before receiving a retention incentive, an employee must sign a written condition statement. The WV HRO Form 575-3C, Retention Incentive Conditions, has been developed to document their understanding of these conditions. It must be signed by the employee and accompany the WV HRO Form 575-3A, Retention Incentive Nomination/ Justification. Requests without a properly executed conditions statement will be returned without action. The statement describes:

- a. That a retention incentive may be paid as long as the conditions giving rise to the original determination to pay the incentive still exist;
- b. That managers may reduce or terminate an incentive if, for example, a lesser amount would be sufficient to retain the employee, the agency no longer feels a retention incentive is warranted for the position, or for budget considerations;

c. Recipients are cautioned to not place themselves in financial jeopardy. Advance notice is not required to be given to an employee when a retention incentive is being reduced or terminated;

d. Supervisors are required to review at least annually the conditions warranting continuation of the Retention Incentive. Annual re-certifications not received in the Human Resources Office by the anniversary review date will be terminated on the anniversary date;

e. A disciplinary or adverse action (e.g. written reprimand, suspension) or a technician appraisal system rating of less than "fully acceptable", or the equivalent, exclude employees from continuation of a retention incentive.

12. Service Agreement: A service agreement is not required to receive a retention incentive when the incentive is paid bi-weekly after the completion of the specified period of service (two weeks).

13. Performance Appraisals: At a minimum, a technician performance appraisal rating of "fully acceptable" is required for an employee to receive a retention incentive. Supervisors can consider a new employee for a retention incentive after the employee has completed 120 days in their current position and a "fully acceptable" appraisal is filed with the HRO as long as they are performing in a satisfactory manner and the recommending supervisor expects that level of performance to continue.

14. Payment Options: A retention incentive, once approved, will be paid in bi-weekly installments or as a lump sum after the completion of the full service period agreed upon in the service contract. Payments are received along with normal salary. However if payment of a retention incentive will make the employee exceed the aggregate limitation on pay, the "excess" payment amount will be paid on the first full pay period at the beginning of the following calendar year.

15. Termination of Retention Incentive: Termination of the retention incentive may be discretionary or mandatory.

a. *Discretionary-* The West Virginia National Guard may unilaterally terminate a retention incentive based solely on management needs (i.e. budget).

b. *Mandatory* – The West Virginia National Guard will terminate a retention incentive if an employee is demoted for cause (i.e., conduct), receives a rating of record lower than "fully acceptable" or equivalent while receiving the incentive; failure to re-certify at least annually the retention incentive; or if the employee is moved to another position (management directed or voluntary). The West Virginia National Guard will notify an employee when it terminates a retention incentive service agreement by issuing an SF-50, Notification of Personnel Action. The termination of a retention incentive is not grievable or appealable.

16. Continuation, Reduction, or Termination of a Retention Incentive: The West Virginia National Guard must review each retention incentive annually to determine whether payment is still warranted and to certify the documentation in writing.

a. Continuation - Annual recertifications are documented by the supervisor on the WV HRO Form 575-3C, Annual Recertification of Retention Incentive. A completed WV HRO Form 575-3C must arrive in the Human Resources Office 30 days before the annual recertification date. The WV HRO Form 575-3C is only used to continue a previously approved retention incentive which the conditions and requested percentage remains unchanged. The retention incentive will be terminated if the documentation is not received.

b. Increase - To increase the percentage amount of a retention incentive, supervisors must submit the WV HRO Form 575-3A, Retention Incentive Nomination/Justification and the WV HRO Form 575-3B, Retention Incentive Conditions.

c. Reduction - To decrease the percentage amount of a retention incentive, supervisors must submit the WV HRO Form 575-3A, Retention Incentive Nomination/Justification and the WV HRO Form 575-3B, Annual Recertification of Retention Incentive.

d. Termination - To terminate a retention incentive, a management official (supervisor, commander, director, and comptroller) need only submit a memorandum or e-mail to the Human Resources Officer that clearly identifies the individual(s), the effective date of the requested termination of retention incentive, and reason(s) for the termination. Normally, a termination of a retention incentive is made effective at the beginning of the next pay period.

18. Documentation and record keeping requirements: The WV HRO Form 575-3A, Retention Incentive Nomination/Justification; WV HRO Form 575-3B, Annual Recertification of Retention Incentive; and WV HRO Form 575-3C, Retention Incentive Conditions have been created to document the requirements, justification, certifications, re-certification and approval of a retention incentive. The approved forms will be filed on the left side of the OPF for at least the duration of the approved retention incentive.

FOR THE GOVERNOR:



ALLEN E. TACKETT
Major General, WVARNG
The Adjutant General

RETENTION INCENTIVE NOMINATION/JUSTIFICATION

I. INDIVIDUAL INFORMATION

Name	SSAN	Proposed Effective Date
Pay Plan-Series-Grade	Position Title	Name and Location of Technician Organization
Last Appraisal Rating	Appraisal Dated	Duty Station

II. DETERMINATION OF THE AMOUNT OF RETENTION INCENTIVE

Requested Percentage	Criteria Used to Establish the Percentage
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III. JUSTIFICATION

Describe in detail all of the following criteria. Failure to address all items will result in the action being returned without action. Information regarding the following areas may be continued on additional pages.

1. Unusually high or unique qualifications of the employee; or a special need for the employees services.

2. Extent to which the employee's departure would affect the West Virginia National Guard's ability to carryout an activity, or perform a function that is essential to the mission of the West Virginia National Guard.

3. Success of recent efforts to recruit candidates with similar qualifications and the availability of qualified candidates in the labor market.

III. NOMINATING SUPERVISOR CERTIFICATION

I certify that in the absence of a retention incentive the employee would likely leave federal service. The applicant has signed the WV HROR 575-3C, Retention Incentive Conditions, and it is attached.

Name/Title	Signature	Date	Telephone
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IV. COMMANDER/DIRECTOR CERTIFICATION

I concur with this request.

Name	Signature	Date	Telephone
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V. COMPTROLLER CERTIFICATION OF FUNDING AVAILABILITY (ANG ONLY)

I certify that funds are available for this action.

Name	Signature	Date	Telephone
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VI. DIRECTORATE OF HUMAN RESOURCES USE ONLY

Nature of Action	Authority	Retention Incentive Percentage and Amount	Effective Date
827 RETENTION INCENTIVE	VPN 5 USC 5754(d)(3)(a)		

Remarks

Retention incentive will be terminated unless re-certification is approved by _____.

Current Year Aggregate Limitation on Pay \$ _____ (5 CFR 530.202)

Annual Rate of Basic Pay x Recruitment Incentive % = Incentive Amount

\$ _____ X _____ = \$ _____

REVIEWS/APPROVAL

I certify that the information entered on this form is accurate and that the proposed action is in compliance with statutory and regulatory requirements.

HUMAN RESOURCES SPECIALIST	Signature	Date
HUMAN RESOURCES SPECIALIST	Signature	Date
DIRECTOR/DEPUTY DIRECTOR OF HUMAN RESOURCES	Signature	Date

ANNUAL RECERTIFICATION OF RETENTION INCENTIVE

I. INDIVIDUAL INFORMATION

Name	SSAN	Proposed Effective Date
Pay Plan-Series-Grade	Position Title	Name and Location of Technician Organization
Last Appraisal Rating	Appraisal Dated	Duty Station

II. NOMINATING SUPERVISOR CERTIFICATION

I certify that in the absence of the current retention incentive the employee would likely leave federal service. The conditions of the earlier retention incentive are still current.

Name/Title	Signature	Date	Telephone
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III. COMMANDER/DIRECTOR CERTIFICATION

I concur with this request.

Name	Signature	Date	Telephone
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IV. COMPTROLLER CERTIFICATION OF FUNDING AVAILABILITY (ANG ONLY)

I certify that funds are available for this action.

Name	Signature	Date	Telephone
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V. DIRECTORATE OF HUMAN RESOURCES USE ONLY

Nature of Action	Authority	Retention Incentive Percentage and Amount	Effective Date
827 RETENTION INCENTIVE	VPN 5 USC 5754(d)(3)(a)		

Remarks

Retention incentive will be terminated unless re-certification is approved by _____ .
 Current Year Aggregate Limitation on Pay \$ _____ (5 CFR 530.202)

\$ _____ X _____ = \$ _____
 Annual Rate of Basic Pay x Recruitment Incentive % = Incentive Amount

REVIEWS/APPROVAL

I certify that the information entered on this form is accurate and that the proposed action is in compliance with statutory and regulatory requirements.

HUMAN RESOURCES SPECIALIST	Signature	Date
HUMAN RESOURCES SPECIALIST	Signature	Date
DIRECTOR/DEPUTY DIRECTOR OF HUMAN RESOURCES	Signature	Date

RETENTION INCENTIVE CONDITIONS

You have been nominated for a Retention Incentive in the West Virginia National Guard technician program. Here are a few facts about Retention Incentives that you need to know:

1. The West Virginia National Guard may continue payment of a retention incentive as long as the conditions giving rise to the original determination to pay the incentive still exist.
2. Managers may reduce or terminate an incentive if, for example, a lesser amount would be sufficient to retain the employee, the agency no longer feels a retention incentive is warranted for the position, or for budget considerations.
3. Retention incentive recipients are cautioned to not place themselves in financial jeopardy. Retention incentives may and often will change due to the fluidity of labor markets, mission requirements, and budget considerations. Do not rely on an awarded retention incentive to pay for the necessities of life. Advance notice is not required to be given to an employee when a retention incentive is being reduced or terminated. The decision to reduce or terminate a retention incentive cannot be grieved or appealed.
4. At a minimum, supervisors will review at least annually the conditions warranting continuation of the Retention Incentive.
5. Annual re-certifications not received in the Directorate for Human Resources 30 days prior to the annual anniversary review date will be terminated on the anniversary date by the Directorate for Human Resources.
6. The following situations exclude employees from consideration for or continuation of a Retention Incentive:
 - a. Disciplinary or adverse action (e.g. written reprimand, suspension) anytime during the preceding twelve months or while receiving a retention incentive.
 - b. Technician appraisal system rating of "unsatisfactory."

I HAVE READ AND UNDERSTAND THESE CONDITIONS

SIGNATURE

DATE

TYPE/PRINT FULL NAME